



Reports of Cases

Order of the Court (Sixth Chamber) of 13 July 2017 — Saferoad Grawil and Saferoad Kabex

(Case C-35/17)

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Public procurement — Principles of awarding contracts — Equal treatment of tenderers — Duration of validity of the tender and of the deposit — Extension not explicitly provided for — Exclusion from the tender procedure)

Approximation of laws — Procedures for the award of public works contracts, public supply contracts and public service contracts — Directive 2004/18 — Principle of equal treatment of tenderers — Obligation of transparency — Exclusion of an economic operator which has not complied with an obligation which was not expressly laid down in the contract documentation or in the national law from participating in a contract — No possibility of rectifying that omission — Not permissible

(European Parliament and Council Directive 2004/18, Art. 2 and Annex VII A, point 17)

(see paras 18, 19, 21-23, 26, 27, operative part)

Operative part

Article 2 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, the principle of equal treatment and the obligation of transparency must be interpreted as precluding the exclusion of an economic operator from a tender procedure as a result of its failure to comply with an obligation which was not expressly laid down in the contract documentation.